

This letter informs the taxpayer that the periodical referenced in the letter qualifies for the newsprint and ink exemption under the Retailers' Occupation Tax Act and the Service Occupation Tax Act, and that the taxpayer incurs no Retailers' Occupation Tax or Service Occupation Tax liability on the printing of that newsletter. See 86 Ill. Adm. Code 130.2105 and 140.125. (This is a PLR).

March 14, 2001

Dear Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>), is in response to your letters of January 16, 2001 and February 19, 2001. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither COMPANY nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your January 16, 2001 letter, you have stated and made inquiry as follows:

This is a formal private letter ruling request made on behalf of COMPANY ('taxpayer') under 2 Ill. Admin. Code chapter 1 & 1200.110. To the best of taxpayer's knowledge, the letter ruling requested herein is not, nor has it been, the subject of an audit, administrative or court case involving taxpayer or any related party. To the best of taxpayer's knowledge, the Department has not previously ruled on the same or similar issue for taxpayer or a predecessor and taxpayer has not previously submitted the same or similar issue to the Department and withdrawn it prior to the Department's issuance of a letter ruling.

Taxpayer is a printer located in CITY, Illinois. Taxpayer prints for its customer, BUSINESS, a newsletter entitled 'TITLE'. In a private letter ruling dated March 29, 1999 (copy enclosed), the Department of Revenue determined that the newsletter qualifies for the exemption for newsprint and ink.

Taxpayer is registered with the Department of Revenue under IBT ##. Taxpayer's cost of raw materials is and, since its inception, has been less than 75% of its gross receipts from its sale of printing services. Taxpayer has purchased its raw materials without paying the Service Occupation Tax by providing to its suppliers a valid resale certificate. Taxpayer has collected from BUSINESS Service Use Tax in an amount equal to the

cost price of the tangible personal property involved in the printing of the exempt newsletter.

Taxpayer requests the following rulings:

- 1) Assuming that the nature of the newsletter printed for BUSINESS continues to qualify for the newsprint and ink exemption, may taxpayer properly not collect Service Use Tax from BUSINESS on its transfer of the newsletter to BUSINESS?
- 2) May taxpayer obtain from the Department of Revenue a refund of the Service Use Tax collected from BUSINESS in connection with the newsletters printed by printer that qualify for the newsprint and ink exemption, for those periods that remain open under the statute of limitations. In making this application, taxpayer would unconditionally refund to BUSINESS all amounts refunded by the Department in connection with this request.

The answer to each question should be in the affirmative. As tax is not owed by BUSINESS because of the exempt nature of the newsletter printed for it, no Service Use Tax is owed on past or future transactions.

In your February 19, 2001 letter, you have stated as follows:

I received your voice mail on 2/9/01 and appreciate your prompt attention to this matter. Your voice mail was made in connection with a formal private letter ruling request made on behalf of COMPANY ("taxpayer") under 2 Ill. Admin. Code chapter 1 & 1200.110 dated 1/16/01.

According to your voice mail request and in accordance with Administrative Section 1200.110 Subsection B(3), I hereby represent to the Illinois Department of Revenue that COMPANY is not the subject of any on going audit and/or pending litigation at this time and during the period upon which this request is being made.

In addition, I am enclosing a copy of the "TITLE" newsletter which you suggested might be helpful in processing our ruling request.

DEPARTMENT'S RESPONSE:

We believe that the newsletter "TITLE" qualifies for the newsprint and ink exemption under the Retailers' Occupation Tax Act and the Service Occupation Tax Act. See the enclosed copies of 86 Ill. Adm. Code 130.2105 and 140.125; and Moody's Investors Service, Inc. v. The Department of Revenue, 101 Ill. 2d 291 (1984). COMPANY incurs no Retailers' Occupation Tax or Service Occupation Tax liability on the printing of that newsletter. Therefore, since COMPANY incurs no Service Occupation Tax liability on the printing of the newsletter "TITLE", it is not required to collect complementary Service Use Tax from its customer BUSINESS on the printing of that newsletter.

If COMPANY unconditionally refunds the amount of Service Use Tax it has collected from BUSINESS it may file a claim for credit or refund for the amount of Service Occupation Tax paid to the Department.¹

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have questions regarding this Private Letter Ruling you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.revenue.state.il.us or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
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¹ For the limitations periods for filing claims for credit or refund under the Service Occupation Tax Act and the Retailers' Occupation Tax Act, see 35 ILCS 115/20 and 35 ILCS 120/6, respectively.